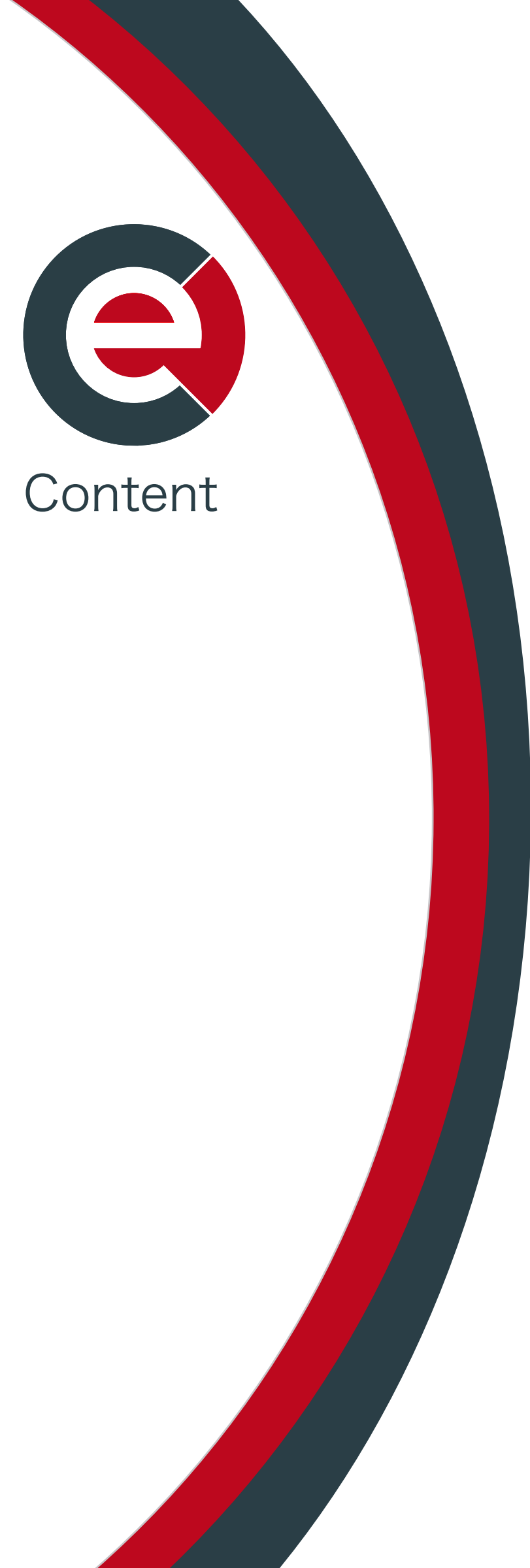




Driving Solutions IR35 Introduction





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IR35 OVERVIEW & RULES

What is IR35?

From April 2021, the Government is extending the off-payroll rules into the private sector. The new rules will apply to work done by contractors working as personal service companies (PSC). IR35 is the term used to describe the UK tax legislation for contractors.

Who the rules apply to?

The rules apply to all public sector, medium and large-sized private sector clients that meet 2 or more of the following conditions:

- an annual turnover of more than £10.2 million
- a balance sheet total of more than £5.1 million
- more than 50 employees.

If the company does not fall into the conditions, then they are exempt from IR35 rules. Employ Recruitment will require the client to complete an **Exempt Declaration Form**.

All other companies must comply with the IR35 rules.

What are the rules of IR35?

The client is responsible for assessing the tax status (IR35 status) of a contractor work assignment and making a Status Determination. To do this the client must take reasonable care in making the decision.



WHAT IS A STATUS DETERMINATION?

A Status Determination is the tax status of the work assignment and is either Inside IR35 or Outside IR35.

You may choose to use the HMRC's CEST Tool (Check Employment Status for Tax).

Inside IR35

For inside IR35 assignments, the contractor is deemed to be an employee (for tax purposes), meaning the fee-payer (Employ Recruitment) is liable for making tax and national insurance deductions. These deductions must be reported to HMRC to meet tax liabilities.

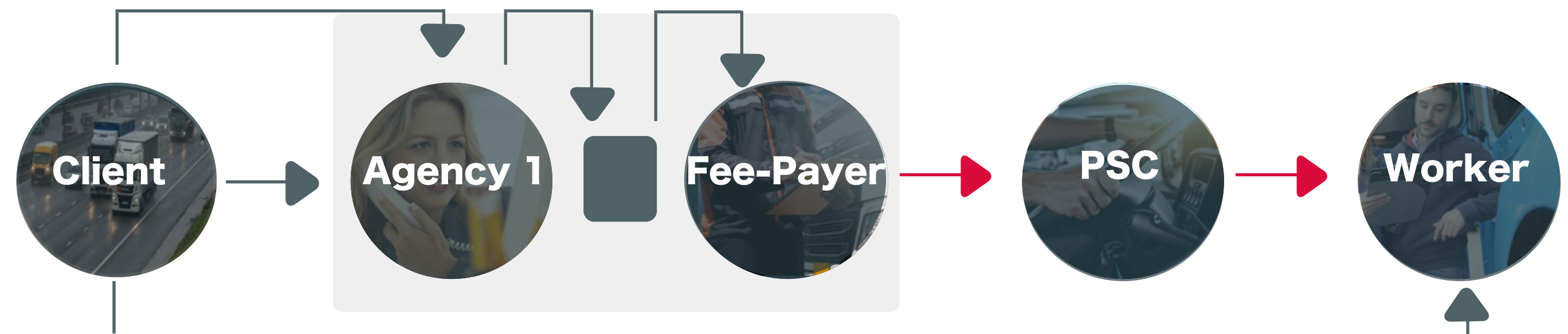
Outside IR35

For outside IR35 assignments, the contractor does not look like an employee of the client, is generally self-employed (for tax purposes) and will continue to be responsible for deducting their own tax and national insurance.

1. Client required to provide status determination together with the reasons for determination to the party they contract with and the worker.

2. Status determination and reasons for determination are required to be passed down the contractual chain.

→ Contractual chain
→ Proposed change



3. Client required to provide status determination to worker.



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Status Determination and Lorry Drivers

Why we believe Lorry Driver Assignments fall Inside IR35

Employ Recruitment solely works with drivers who are contractors.

The HMRC CEST tool reviews the following criteria for drivers that fall Inside IR35:

- **Substitution:** Agency drivers do not subcontract their services.
- **Working Arrangements:** Agency drivers are under the supervision, direction and control of the client; they are told where they must go, how and at what time.
- **Obligation:** Agency drivers get paid for the hours they work, and the client takes the risk if they are delayed and have to night out.
- **Materials:** They do not buy materials that are consumed as part of their service.

The UK Government Traffic Commissioners state in recent statutory guidance (2020) that, '...in road haulage, it is rare for someone to be genuinely self-employed unless they are an owner-driver'.





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Status Determination and Liability

Employ Recruitment have taken advice from a qualified, professional advisor; Sue Ollerenshaw, Director of Efficient Employment Tax Solutions.

‘Determining status can be a complex and grey area. However, Employ Recruitment’s drivers are paid on an hourly rate, use your vehicles, are controlled by you, do not have an unfettered right to send a substitute, they will be inside IR35.’

‘Your responsibility as the end-hirer is to make a fair and reasonable status determination and pass it to us as the fee-payer.’

‘Employ Recruitment are then responsible for accounting for the apprenticeship levy, employer’s NIC and deducting PAYE and NIC and paying these deductions.’

‘Provided you have taken reasonable care when making a status determination, we as an agency are liable for any underpaid PAYE and NIC.’





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ACTION & SUPPORT

What does the client need to do?

The client must take reasonable care to assess the work assignment and complete a **Status Determination Statement** to meet IR35 compliance.

Employ Recruitment will pass this status through the supply chain to the contractor.

How will we support you?

- Our friendly team are here to support you with your IR35 questions and processes.
- We will communicate all changes and plans to contractors.
- Pass the Status Determination to the contractors.
- Establish a clear process for ongoing monitoring and audits.
- In-house PAYE payroll procedure.
- In-house Off-payroll procedure (contractors Inside IR35).



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Payroll

Employ Recruitment provide a compliant and simple payroll procedure for our workers:

- PAYE payroll procedure
- Off-Payroll procedure.

Off-Payroll Procedure (contractors Inside IR35) from 6 April 2021

- 1) Employ Recruitment will receive the invoice from PSC
- 2) VAT and any expenses will be deducted (this is the deemed direct payment)
- 3) Deemed payment entered onto payroll software
- 4) Deductions made from PSC for PAYE and NI Contributions
- 5) Any VAT and expenses then added back to this amount
- 6) Amount paid to PSC with a payslip sent detailing tax and NI deductions
- 7) Deductions reported to HMRC via Full Payment Submission
- 8) Payment then made to the HMRC at relevant time.



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OUR SERVICE TO YOU

**Our company values are Insightful, Accountable and Solution Focused.
We will provide the following:**

- 100% shift coverage
- KPI's to fit your company needs
- Establishment of joint goals to meet your company strategy
- Forecasting
- 100% accurate planning
- 100% accurate billing
- Implementation of nation leading Driver Recruitment Software (DRS)
- Driver profiling to assign the most suitable drivers
- Driver training from CPC to live haul.





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Shortage of Lorry Drivers

There is a shortage of lorry drivers in the UK and that figure is growing because of an aging workforce, IR35, Brexit and Covid-19.

FTA Logistics UK reported the shortage in the 'UK climbed to 59,000 as 64% of transport and storage businesses now face severe skills shortages'.

A government report of the Shortage Occupation List states that drivers are in the top 15 of lower-skilled roles.

The lack of newly qualified drivers may continue to worsen if we do not continue to protect these vital key workers.

Employ Recruitment is committed to retaining and training drivers so they can continue to service your company.

REFERENCES

HMRC

<https://www.gov.uk/guidance/april-2020-changes-to-off-payroll-working-for-clients>

HMRC Check Employment Status Tool

Check employment status for tax - GOV.UK (www.gov.uk)

HMRC Guidance

ESM4210 - Employment Status Manual - HMRC internal manual - GOV.UK (www.gov.uk)

ESM4211 - Employment Status Manual - HMRC internal manual - GOV.UK (www.gov.uk)

Sue Ollerenshaw, Director, Efficient Employment Tax Solutions Limited

www.employmenttaxexpert.co.uk

Migration Advisory Committee – Full Review of Shortage Occupation List

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/806331/28_05_2019_Full_Review_SOL_Final_Report_1159.pdf

FTA Logistics UK – Skills Shortage

<https://logistics.org.uk/CMSPages/GetFile.aspx?guid=14332f44-a0db-40b5-b441-d10ad1aab021&lang=en-GB>

Driver Require

Is There an HGV Driver Shortage in the UK? Read Our Whitepaper Now
(driverrequire.co.uk)



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Off-payroll (IR35) rules - Exempt Company Declaration

Employ Recruitment may supply the client with temporary workers/contractors who work through intermediaries such as their own personal services companies, referred to as 'off-payroll workers'. If Employ Recruitment supply an off-payroll worker, the client must determine their employment status for tax purposes, **unless** the client can show that they are exempt from the requirements.

Client Name

Client Trading Name
(if different)

Client Registered
Address

Client Company
Registration Number

Client declaration that it is an exempt organisation for the purposes of the off payroll rules

Click to tick as appropriate

The Client confirms that it is exempt from Part 2, Chapter 10 Income Tax (Earnings and Pensions) Act 2003 (ITEPA) because the Client:

1. Is not a public authority as defined in the Freedom of Information Act 2000 or the Freedom of Information Act (Scotland) Act 2002

2. Qualifies as small for a tax year (section 48(1) ITEPA):

a. The Client does not have a turnover of more than £ 10.2 million.

b. The Client does not have a balance sheet of more than £ 5.1 million

c. The Client does not have more than 50 employees.

If relying on the conditions set out in a, b and c, the client must meet at least two of those conditions and tick them accordingly.

OR

d. The Client is eligible to apply the simplified test of its size and does not have a turnover of more than £ 10.2 million per financial year (or per calendar year if it does not have a financial year) or that it has not exceeded this turnover for more than one financial (or calendar) year prior to the current tax year;



Off-payroll (IR35) rules - Exempt Company Declaration

Click to tick as appropriate

e. The Client also confirms that it is neither:

1. part of a group of companies in which any group company (including the parent) does not qualify as a small company; nor
2. a partner in a joint venture in which any other partner is not small.

OR

3. Does not have a UK connection for a tax year because it does not have a UK presence or a permanent establishment in the UK (section 60I ITEPA).

The Client also confirms that it will advise the employment business immediately in writing if it ceases to be exempt.

The Client acknowledges that if it ceases to be exempt then the Client will be required to give a status determination statement to the employment business for every assignment in which the employment business supplies an off-payroll worker.

If the Client incorrectly declares that it is exempt, it will be liable for all tax and National Insurance deductions where Part 2, Chapter 10 ITEPA requires the deduction of such sums.

Signature:

Name:

Position at Client:

Date:



Off-payroll rules (IR35) Status Determination Statement

Client Name

Client Trading Name
(if different)

Client Registered
Address

Client Company
Registration Number

Assignment to which this status determination statement relates

Assignment description
“the Assignment”:

Date of status determination
statement provided by the
Client:

Status determination decision:

Click to tick as
appropriate

The Client has determined that:

The off-payroll rules do apply to the Assignment, the Assignment is ‘Inside IR35’

The off-payroll rules do not apply to the Assignment, the Assignment is ‘Outside IR35’

Reasons for the Client's status determination decision:

The Client must state how it came to this decision in the box below

The Client acknowledges that if it decides that this status determination decision is incorrect, the Client must withdraw this statement and provide another with immediate effect.

The Client must satisfy itself as to when and how Part 2 Chapter 10 ITEPA applies to its own business and to any work assignment.

Signature:

Name:

Position at Client:

Date: